

U.S.S.N. 10/696,636

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Atty. Dkt. No. 77060

Amdt. After Final dated November 29, 2005

Reply to final Office Action of July 27, 2005

REMARKS/ARGUMENTS

Upon entry of this amendment, Claims 1, 3, 5, 6, 9 and 10 would remain in this application. Claim 1 would be amended. Claims 2, 4, 7, 8, and 11-16 would be canceled.

The amendment merely incorporates the recitations of claim 2 into its parent claim 1, and cancels claims 4 and 7 which depended upon claim 2.

Therefore, the amendment raises no new issues requiring further consideration and/or search, would materially reduce or simplify issues for any appeal taken, and it raises no issues of new matter.

Turning to the specific rejections:

Claim Rejections under 35 U.S.C. § 102(b)

1. Claims 1-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Youngquist (U.S. Patent No. 4,211,694).

In the Advisory Action dated November 2, 2005, it states, *inter alia*:

... Applicant requests citation of cheese with respect to Youngquist. The soy protein material therein is used in a cheese-spread product (Example 2). ...

Advisory Action of November 2, 2005, Continuation of 11.

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Applicants point out that amended claim 1, which is based on formerly pending claim 2, recites "a process or natural cheese containing about 2.5 to about 6.5 g deflavored soy protein per single serving size of about 30g."

Applicants' prior response of October 4, 2005 also noted that the sole mention of a cheese type product by Youngquist apparently occurs at col. 8, lines 42-49 thereof, describing adding various flavor elements to the protein products to provide, *inter alia*, vegetable-based meat in "cheese type-spreads".

Applicants respectfully submit that the "cheese-type spread" product mentioned by Youngquist is not illustrated or identified by Youngquist as specifically encompassing process cheese nor natural cheese as those terms of art would be understood and interpreted by one of ordinary skill in the art.

In addition, Youngquist fails to identically disclose the "about 2.5 to about 6.5 g deflavored soy protein per single serving size of about 30g" recitation of amended claim 1. Example II of Youngquist describes nothing about the addition rates of the "vegetable-based meat" in cheese-type spreads.

In view of at least these reasons, Applicants submit that Youngquist does not identically disclose amended claim 1, and, therefore, it can not anticipate this pending claim or its dependent claims.

Therefore, Applicants request reconsideration and withdrawal of this rejection.

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Applicants also specifically reserve and reference their arguments presented in their prior response submitted October 4, 2005, as providing additional bases for overcoming this rejection.

2. Claims 1-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Peng (U.S. Patent No. 4,105,803).

In the Advisory Action dated November 2, 2005, it states, *inter alia*:

... Applicant argues that Peng does not provide certain method steps as set forth in the instant claims (e.g., ultrafiltration). Although the processing is different, it is not been demonstrated that the instant product as recited would differ from that set forth in Peng. In other words, Peng may be removing flavor components by heating and vaporizing same as aroma.

Advisory Action of November 2, 2005, Continuation of 11.

Applicant notes that Peng admixes heat-treated soymilk and cheese whey in predetermined proportion, and the resulting mixture is then coagulated with select precipitants to derive a "white, soft gelatinous mass ... having a desirable bland flavor" (col. 5, lines 19-29, abstract).

Peng mixes preboiled soybean milk with "a sweet cheese milk whey component" (i.e., "a direct cheese-whey by-product" or "cheese whey concentrate material"), and the resulting mixture is subjected to co-precipitation procedures to form a "soybean-cheese whey curd" (col. 6, lines 38-59; col. 7, lines 42-44; col. 8, lines 5-7; col. 10, line 23).

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Peng refers to "cheese" whey in the limited sense that the whey is obtained as a *by-product* of cheese manufacture, and not that it is used as a starting material in cheese manufacture (col. 6, lines 42-57).

Peng characterizes his product as being "curd" (e.g., col. 7, line 55), and not as process or natural cheese.

Applicant further points out that Peng nowhere teaches or suggests that the bland-tasting, co-precipitated "soybean cheese whey curd" product is or can be ripened or aged in a manner akin to natural cheese production.

On the contrary, Peng touts "[s]uccess in achieving an ideally bland food product" (col. 5, lines 25-29).

According to Peng, alteration of the soybean-cheese whey mixture to favor a higher cheese whey content only resulted in a "raw milky taste" gradually being recognized, and no mention is made of any cheese flavor being obtained (col. 14, lines 38-40).

Ostensibly, Peng co-precipitates whey to tone down the "beany" aroma or taste otherwise associated with higher soybean content curd products, and not for purposes of manufacturing cheese, much less process or natural cheeses.

Applicants respectfully submit that the "curd" products described by Peng are neither process cheese nor natural cheese as those terms of art would be understood and interpreted by one of ordinary skill in the art.

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In view of at least this reason, Applicants submit that Peng does not identically disclose amended claim 1, and, therefore, it can not anticipate this pending claim or its dependent claims.

Therefore, Applicants request reconsideration and withdrawal of this rejection.

Applicants also specifically reserve and reference their arguments presented in their prior response submitted October 4, 2005, as providing additional bases for overcoming this rejection.

CONCLUSION

In view of the above, it is believed that this application is in condition for allowance, and notice of such is respectfully requested.

Respectfully submitted,

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